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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/020,122	02/06/1998	FREDERIC J KIRKLIN	980106	2906

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EXAMINER

PATEL, JAGDISH

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 06/06/2002

18

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/020,122

Applicant(s)

KIRKLIN ET AL.

Examiner

JAGDISH N PATEL

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-57 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-15, 26-39 and 47-54 is/are allowed.
- 6) ☒ Claim(s) 16-25 and 40-45, 47-53 and 55-57 is/are rejected.
- 7) ☒ Claim(s) 46 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

1. This communication is in response to amendment filed 3/21/02.

Response to Amendment

2. Claims 16,21,28,29,30,40,51,54,55,56 and 57 have been amended.

Response to Arguments

3. Rejections of claims 21, 28 and 40-50 under 35 USC § 112 have been withdrawn.
4. Applicant's arguments regarding rejections of claims 16-25 and 40-45, 47-53 and 55-57 have been fully considered but they moot in view of new ground of rejection and/or allowability indicated in this office action.

Applicant's remarks regarding applicability of Shelton reference in view of amended claims 40 (and dependent) is not convincing. Shelton teaches "providing the customer with an option to respond.." which include both "spoken words" and "DTMF-encoded signals" (refer to detailed analysis of the new limitation in claim 40).

Arguments regarding element "comparing the requested product quantity..." are persuasive. Consequently, Claims 46 and 54 have been allowed or objected as being allowable.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 40-42 and 57 are rejected under 35 U.S.C. 102(b) as being anticipated by Shelton.

Claim 40: Shelton teaches a method of merchandise ordering, said method comprising:

providing an order processing system comprising a central station (central office CO, in Fig. 1) interfaced to a telephone communication network (col. 4 L 38-51) so as be accessible to customer by telephone (telephone station 12) for creation of a merchandise order (refer to col. 5 L 5- 18);

interactively assembling a customer order for fulfillment, including the steps of:

requesting from a customer a product, by spoken word generated by said central station, a product identification of a product item and quantity of the product item to be added to the merchandise order (col. 2 L 17-22, col. 5 L 5-9 and col. 6 L 34-45);

providing the customer with an option to respond, according to the customer's preference, with requested product identification in spoken words and an option to respond with requested product identification in DTMF-encoded signals (col. 5 L 5-18, ..the customer selects a category of product or services through the telephone DTMF keypad or via speech recognition, also refer to claims 16 and 17 of Shelton which further clarifies that the method implements both DTMF and voice recognition means for detecting customer inputs);

receiving the requested product identification and a requested product quantity from a customer (col. 2 L 17-22, col. 5 L 5-9 and col. 6 L 34-45);

confirming the identity and quantity of the product item to be included in the merchandise order (col. 6 L 56-59).

Claim 41: reciting to the customer a product description and a product price.. inherent in step of confirming as discussed above since the information pertains to the order being processed (col. 6 L 52-59).

Claim 42: determining if the customer has an unfulfilled merchandise order by checking an unfulfilled data base (Shelton Col. 3 L 1-11, "database of customer orders unfilled...").

Claim 57: Shelton teaches a merchandise ordering and fulfillment comprising: providing an order processing system comprising a central station interfaced to a telephone communication network so as to be accessible to customers by a telephone for creation of a merchandise order (Fig. 1, col. 3 L 54-65);

assembling a customer order for fulfillment including the step of: requesting from a customer a product identification..and a quantity of the product item to be added to the merchandise order (verbal prompt..step 46, col. 5 L 5-9);

providing the customer with an option to respond, according to the customer's preference, with a requested product identification in spoken words and an option to respond with a requested product identification in DTMF-encoded signals (col. 5 L 5-18, ..the customer selects a category of product or services through the telephone DTMF keypad or via speech recognition, also refer to claims 16 and 17 of Shelton which further clarifies that the method implements both DTMF and voice recognition means for detecting customer inputs);

receiving the requested product identification and a requested quantity from a customer (inherent because confirmation of the order is recited in line 15-17);

confirming the identity and quantity of the product item to be included in the merchandise order (col. 5 L 15-17);

transmitting a record of the merchandise order to a store station for requesting payment for the merchandise order (col. 6 L 38-45, customer orders received at the adjunct 22 (step 80) and are processed at vendor host (step 82)).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 16-22, 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shelton and further in view of Ross and further in view of Becker (US Pat. 5,808, 289).

Claim 16: Shelton teaches a method of merchandise ordering and fulfillment comprising:

providing an order processing system comprising a central station (central office CO, in Fig. 1) interfaced to customers to a telephone network (col. 4 L 38-51) so as be accessible to customer by telephone (telephone station 12) for creation of a merchandise order (refer to col. 5 L 5- 18), said system further comprising a store

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station linked to the central station for receiving said merchandise order (vendor site 18, Host Computer 30) from said central station (CO);

assembling a customer order for fulfillment, including the step of requesting identification of product items to be added to the product order and quantity of each identified product item (col. 2 L 17-22, col. 5 L 5-9 and col. 6 L 34-45).

Shelton fails to teach the recited fulfilling steps. (It is contended that these steps are basic and inherent steps for completing any fulfillment process as discussed in background of the Invention by Ross) In the same filed of endeavor, however, Ross teaches a method of merchandise ordering and fulfillment (abstract) comprising:

assembling a customer order for fulfillment including the identification of product items ...and the quantity of each identified product item (step for assembling a customer order for fulfillment, including the step of requesting identification of product item (col. 1 L 14-27);

fulfilling the merchandise order from the product storage space including:

compiling a product listing of the ...orders to be assembled in the product storage space (..a list of SKUs or line items...col. 1 L 14-27);

identifying the product locations in the product storage space of each of the product items on said listing. (The list specifies storage location. col. 1 L 14-27);


It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to combine the assembling and fulfilling steps including compiling a product list of ...merchandise orders as disclosed by Ross and in the order processing system disclosed by Shelton. Motivation for such a combination is obviously more efficient, accurate and economical method to fulfill orders received via the telecommunication network.

Shelton and Ross combined method discussed above fails to teach that the store station includes a portable station movable by a user about a product storage space and further step of moving the portable station with the user about the product storage space as claimed. Becker, in the same field of endeavor, however, teaches a portable station linked to a store station usable for order fulfillment moving the portable station with the user (warehouse employees) about the product storage space between the product locations in the product storage space (col. 1 L BACKGROUND OF THE INVENTION) portable data collection device linked to a remote computer)

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to implement the portable station with the store station and moving the portable station as recited above because the portable station would enable the user to easily it around the product storage space (warehouse) and improve efficiency of order pick since the order fill data (product or item list) is immediately and conveniently available.

Claims 18-20 recite various elements of commonly known procedures practiced in order fulfillment. Such procedures are required steps in order to ensure accuracy of the customer order (predetermined limit quantity..claim 18), merchandise order transfer characteristics for effecting transfer to customer of the product items of the merchandise order .. as recited in claim 19 (delivery options), confirming the identity and quantity of the product item as recited in claim 20 (..confirmation message..Shelton col. 6 L 56-59 and col. 5 L 19-27).

Claim 21: fulfilling step includes the steps of transmitting to said portable station the identification of the product item to be included in the customer order, requesting from said portable station the identification of the product item picked from said product storage space, scanning a code associated with the product item... (Becker..col. 3 L 30-



48, ..decoded data..step necessary for accuracy and inventory of products in the storage space).

Claim 22 and 17: determining if the customer account has an unfulfilled merchandise order ..(Shelton col. 3 L 1-11, ..customer orders unfilled...).

Claims 24 and 25: requesting and recording a payment method... and transmitting a record of merchandise order station for requesting payment..(Shelton Fig.1, Col. 4 L 38-51, ..transactions to be carried out between the vendor and the customer..).

9. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shelton and further in view of in view of Ross and further in view of Becker and further in view of Barrus et al.

Claims 23: Shelton, Ross and Becker references fail to teach reciting a listing of any special offer product items. In the same filed of endeavor, however, Barrus teaches a method of merchandise ordering and order fulfillment comprising:

reciting a listing of any special offer product items (col. 13 L 32-50).

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to include recitation of special offers as recited in the Shelton method as disclosed by Barrus method because it would enable the customer to take advantage of any special merchandise offers. It should be noted that the limitation of "special offers" by itself is well known in product offering and marketing. The examiner relies on Barrus for mere concept of reciting special offer regardless of its implementation.

10. Claims 43-45 and 50-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shelton (US Pat. 5,345,501) as applied to claim 40 above.

Regarding claims 43-45 and 50 Shelton fails to explicitly teach limitations of unfulfilled merchandise order as recited in claims 43-45 and 50. However, implementation of the steps recited in the instant claims is obvious to those of ordinary skilled in the art. For example, procedural steps such as maintaining databases of "unfilled orders" and "current order" etc. , verification of the product identification (per claim 50) and contacting the customer about such data for any modification desired by the customer to ensure accurate and timely fulfillment of the received orders. Obviously, such steps are carried out over the DTMF and/or spoken words over a communication network as per teaching of Shelton.

All other limitations of claim 49 have been analyzed as in claim 40.

Claim 51: Shelton teaches a merchandise ordering and fulfillment comprising:
providing an order processing system comprising a central station interfaced to a telephone communication network so as to be accessible to customers by a telephone for creation of a merchandise order (Fig. 1, col. 3 L 54-65);

assembling a customer order for fulfillment including the step of:

requesting from a customer a product identification..and a quantity of the product item to be added to the merchandise order (verbal prompt..step 46, col. 5 L 5-9);

providing the customer with an option to respond, according to the customer's preference, with a requested product identification in spoken words and an option to respond with a requested product identification in DTMF-encoded signals (col. 5 L 5-18, ..the customer selects a category of product or services through the telephone DTMF keypad or via speech recognition, also refer to claims 16 and 17 of Shelton which

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further clarifies that the method implements both DTMF and voice recognition means for detecting customer inputs);

receiving the requested product identification and a requested quantity from a customer (inherent because confirmation of the order is recited in line 15-17);

confirming the identity and quantity of the product item to be included in the merchandise order (col. 5 L 15-17);

determining if the customer has an unfulfilled merchandise order by checking an unfulfilled merchandise orders database (col. 3, L 1-11, "data base of orders unfilled...");

Shelton fails to explicitly teach the limitations concerning inquiring whether the customer desires a listing of the product items in the unfulfilled merchandise order database as recited. However, as previously discussed in analysis of claims 42-45, it would have been obvious to one ordinary skilled in the art to implement the step of "inquiring" because this step would facilitate fulfilling all product items that were not filled in the previous orders of the customer and may be combined in current merchandise order.

Claims 52 and 53 are analyzed as in claims 44 and 45 as above.

11. Claims 47, 48, 55 and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shelton (US Pat. 5,345,501) and further in view of Barrus et al. (US 5,465,291).

Claim 47: Shelton fails to teach selecting the merchandise order transfer characteristics for effecting the transfer to the customer of the product items of the merchandise order as recited. In the same field of endeavor, however, Barrus teaches selecting the merchandise order transfer characteristics for effecting transfer of the product items of the merchandise order, including choosing between the options as

recited (Barrus, col. 14 L 21-45). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide selection of the merchandise order transfer characteristics as recited because it would provide convenience to the customer for receiving the delivery of the ordered merchandise.

All other limitations of claim 47 are analyzed as in claim 40.

Claim 48: Shelton fails to teach inquiring whether the customer wishes to hear a recitation of product items on which there is a special offer as recited. In the same field of endeavor, however, Barrus teaches recitation of product items on which there is a special offer (Barrus, col. 13 L 32-50). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide recitation of the product items on which there is a special offers as claimed because it would enable the customer to take advantage of low price items and special items (Barrus, col. 13 L 30-50).

All other limitations of claim 48 are analyzed as in claim 40.

Claim 55: Shelton discloses limitations "providing an order processing system. . ."; "assembling a customer order for fulfillment..."; "providing the customer with an option to respond...."; receiving the requested product identification..." and confirming the identity and quantity..." as explained in claim 51 analysis..

Shelton, however, fails to teach inquiring whether the customer wishes to hear a recitation of product items on which there is a special offer as recited. In the same field of endeavor, however, Barrus teaches recitation of product items on which there is a special offer (Barrus, col. 13 L 32-50). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide recitation of the product items on which there is a special offers as claimed because it would enable the customer to take advantage of low price items and special items (Barrus, col. 13 L 30-50).

Claim 56: Shelton discloses limitations "providing an order processing system. . ."; "assembling a customer order for fulfillment..."; "providing the customer with an option to respond...."; receiving the requested product identification..." and confirming the identity and quantity..." as explained in claim 51 analysis.

Shelton, however, fails to teach inquiring whether the customer wishes to hear a recitation of product items on which there is a special offer as recited. In the same field of endeavor, however, Barrus teaches recitation of product items on which there is a special offer (Barrus, col. 13 L 32-50). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide recitation of the product items on which there is a special offers as claimed because it would enable the customer to take advantage of low price items and special items (Barrus, col. 13 L 30-50).

12. Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shelton (US Pat. 5,345,501) and further in view of Becker.

Shelton fails to teach that the store station includes a portable station movable by a user about a product storage space and further step of moving the portable station with the user about the product storage space as claimed. Becker, in the same field of endeavor, however, teaches a portable station linked to a store station usable for order fulfillment moving the portable station with the user (warehouse employees) about the product storage space between the product locations in the product storage space (col. 1 L BACKGROUND OF THE INVENTION) portable data collection device linked to a remote computer)

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to implement the portable station with the store station and moving the portable station as recited above because the portable station would enable the

user to easily it around the product storage space (warehouse) and improve efficiency of order pick since the order fill data (product or item list) is immediately and conveniently available.

Allowable Subject Matter

13. Claims 1-15, 26, 27, 31-39 have been allowed in prior office action
14. Claims 28-30 ~~29, 30~~ and 54 have been allowed.
15. Claim 46 is objected to as being allowable if written in independent form.

Conclusion

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jagdish Patel whose telephone number is (703) 308-7837. The examiner can normally be reached Monday-Thursday from 8:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin, can be reached at (703) 308-1038. The fax number for Formal or Official faxes to Technology Center 3600 is (703) 305-7687. **Draft faxes may be submitted directly to the examiner at (703) 746-5563.**

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1113 or 308-1114. Address for hand delivery is 2451 Crystal Drive, Crystal Park 5, 7th Floor, Alexandria VA 22202.

JNP 6/3/02.



VINCENT MILLIN
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